IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3101 of 2007()

S.C.1006/2000 of the Court of Sessions, Kasaragod

PETITIONER:2nd ACCUSED

CHEMMANAD BALAPOTH HAMSA, HEMMANAD VILLAGE, KASARAGOD DISTRICT,

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3101 of 2007

Dated this the 9th day of October, 2007

O R D E R

The petitioner along with co-accused faced allegations for offences punishable, inter alia, under Section 3 of the Scheduled Cases/Scheduled Tribes (Prevention of Attrocities) Act, 1989. The petitioner was not available for trial. The co-accused faced trial. They were found not guilty and acquitted. The case against the petitioner has been split up. The same is pending before the Court of Session, Kasaragode.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Sessions Judge and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. It is, in these circumstances, prayed that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the

learned Sessions Judge. I have no reason to assume that the learned Sessions Judge would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner prays that there may be a direction for expeditious disposal of the case. Such a request coming from a person who has not entered appearance is found to be interesting. But certainly the petitioner can make such request before the learned Sessions Judge in view of the fact that the defacto complainant has settled the disputes with the co-accused. The petitioner submits that the defacto complainant shall report the settlement of the allegations against the petitioner herein also. After appearing before the learned Sessions Judge, the petitioner, needless

to say, can apply for expeditious disposal of the case in the peculiar facts and circumstances of the case and the learned Sessions Judge must consider such request on merits and pass appropriate orders.

(R.BASANT, JUDGE)

rtr/-